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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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7590

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EXAMINER

MANNING, JOHN

ART UNIT

PAPER NUMBER

2614

DATE MAILED: 01/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/802,638	<b>Applicant(s)</b> KITSUKAWA, TADAMASA	
	<b>Examiner</b> John Manning	<b>Art Unit</b> 2614	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-7 and 9-14 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-7 and 9-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>8/2/05, 7/1/05</u> | 6) <input type="checkbox"/> Other: ____  |

*By*

## DETAILED ACTION

### *Response to Arguments*

1. Applicant's arguments with respect to the amended claim have been considered but are moot in view of the new ground(s) of rejection.

Applicant argues "there is no reason to use the parental flag of Stinebruner in the virtual channel table of Matthews". Matthews discloses a subscriber interface for maintaining a virtual channel table having entries for a plurality of virtual channel numbers, where a user may select a virtual channel. Stinebruner teaches a parental lock flag to prevent children from accessing objectionable material, (i.e. a restriction flag as claimed), which extent to channel (physical or virtual).

Applicant argues, "the relied-upon portions of Watson discusses recording when a user is tuned to a non-virtual channel for billing for conventional cable TV channels. It does not relate to virtual channels, much less to Web site-based virtual channels".

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). Watson teaches recording user access for billing. Watson is not relied upon to teach virtual channels.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Matthews, III et al in view of Stinebruner (US Pat No 6,133,910) and in further view of Breslauer et al. (US Pat No 6,637,027).

In regard to claim 1, Matthews discloses a subscriber interface for maintaining a virtual channel table having entries for a plurality of virtual channel numbers. The claimed step of "establishing an access restriction table, the access restriction table including plural virtual channels" is met by Figure 2, Item 32. "STB 10 includes means for associating each virtual channel number with a program from headend 12. In the described embodiment, such means comprises a virtual channel table 32 having entries for a plurality of virtual channel numbers. An entry for a particular virtual channel number includes a designation of an available program from the headend which is to be associated with the virtual channel number" (Col 4, Lines 43-50). The claimed step of "making the access restriction table accessible to the television" is met by Figure 3. "FIG. 3 is a diagrammatic illustration of virtual channel table 32. In the example given, table 32 contains 500 entries, for virtual channel numbers 1 through 500. The channels are arranged in order. A viewer can increment or decrement the virtual channel number to move or "surf" between channels. When incrementing above the last virtual channel

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number, the first entry becomes current. When decrementing below the first virtual channel number, the last entry becomes current" (Col 4, Lines 51-59). The claimed step of "selectively enabling a consumer to access a Web site address using the interactive television by selecting a virtual channel" is met by Figure 3. "Virtual channels 4, 121, 122, and 500 are associated with other illustrated examples of executable applications 46 which, when selected, are to be executed at STB 10" (Col 5, Lines 6-9). The Matthews reference fails to explicitly disclose "setting a restriction flag on each entry in the table; the flag indicating whether content associated with the address of a selected virtual channel can be displayed". Stinebruner teaches "setting a restriction flag on each entry in the table; the flag indicating whether content associated with the address of a selected virtual channel can be displayed" so as to allow parents to control the content that their child accesses. Each virtual channel has associated with it at least a source indicator and a channel indicator which represent the source to view and the particular channel to view on that source. Additional information, e.g., a channel identifier (which could represent a textual description of the channel), a parental lock flag, among others, may also be associated with a virtual channel" (Col 5, Lines 49-55). Consequently, it would have been obvious to one of ordinary skill in the art to implement Matthews with "setting a restriction flag on each entry in the table; the flag indicating whether content associated with the address of a selected virtual channel can be displayed" for the stated advantage. Matthews discloses virtual channel correlating to *online* services (see Col 2, Lines 32-37). The reference, however, is silent with respect to the online services being a web site. Breslauer teaches the inclusion websites in an

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access control system so prevent the unauthorized access inappropriate material from multiple sources (See Col 4, Lines 1-25; Col 8, Lines 20-28). Consequently, it would have been obvious to one of ordinary skill in the art to implement Matthews with web sites for the stated advantage.

Claim 6 is met by that discussed for claim 1.

3. Claims 2 and 4-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Matthews, III et al in view of Breslauer et al.

In regard to claim 2, Matthews discloses generating a table correlating online services with respective virtual channel numbers. "STB 10 includes means for associating each virtual channel number with a program from headend 12. In the described embodiment, such means comprises a virtual channel table 32 having entries for a plurality of virtual channel numbers. An entry for a particular virtual channel number includes a designation of an available program from the headend which is to be associated with the virtual channel number" (Col 4, Lines 43-50). "FIG. 3 is a diagrammatic illustration of virtual channel table 32. In the example given, table 32 contains 500 entries, for virtual channel numbers 1 through 500. The channels are arranged in order. A viewer can increment or decrement the virtual channel number to move or "surf" between channels. When incrementing above the last virtual channel number, the first entry becomes current. When decrementing below the first virtual channel number, the last entry becomes current" (Col 4, Lines 51-59). The reference discloses the step of "accessing the table to selectively retrieve the address associated with the virtual channel number, such that content associated with the address can be

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displayed on the television" (see Figure 3). "Virtual channels 4, 121, 122, and 500 are associated with other illustrated examples of executable applications 46 which, when selected, are to be executed at STB 10" (Col 5, Lines 6-9). Further, "FIG. 3 is a diagrammatic illustration of virtual channel table 32. In the example given, table 32 contains 500 entries, for virtual channel numbers 1 through 500. The channels are arranged in order. A viewer can increment or decrement the virtual channel number to move or "surf" between channels. When incrementing above the last virtual channel number, the first entry becomes current. When decrementing below the first virtual channel number, the last entry becomes current" (Col 4, Lines 51-59). With respect to the "at least one virtual channel number is a telephone number", the applicant specification refers to states "[a]s shown in Table 1, the virtual channel number can be a number familiar to the content owner, e.g., the content owner's phone number. The table can be generated by the ITV system server 18 and cached in the memory 44 or streamed as needed to the ITV 22" (Page 13). Matthews discloses the customization of the channel numbers, where the users is operable to change the number to a familiar number, as would include telephone numbers. Matthews discloses virtual channel correlating to *online* services (see Col 2, Lines 32-37). The reference, however, is silent with respect to the online services being a web site. Breslauer teaches the inclusion websites in an access control system so prevent the unauthorized access inappropriate material from multiple sources (See Col 4, Lines 1-25; Col 8, Lines 20-28). Consequently, it would have been obvious to one of ordinary skill in the art to implement Matthews with web sites for the stated advantage.

In regard to claim 4, Matthews discloses that the table is stored at the television (see Col 4, Lines 1-8 and 22-24).

In regard to claim 5, Matthews fails to disclose the table being stored at the head end. Official notice is taken that it is notoriously well known in the art to maintain client information, such as a table, at the head end so as to lessen the processing power required at the set top box. Consequently, it would have been obvious to one of ordinary skill in the art to implement Matthews with the table being stored at the head end for the stated advantage.

4. Claims 7 and 9-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Matthews in view of Breslauer et al. and in further view of Watson (US Pat No 5,289,271).

In regard to claim 7, Matthews discloses at least on server having online services being associated with a respective virtual channel number (see Figures 2 and 3). "STB 10 includes means for associating each virtual channel number with a program from headend 12. In the described embodiment, such means comprises a virtual channel table 32 having entries for a plurality of virtual channel numbers. An entry for a particular virtual channel number includes a designation of an available program from the headend which is to be associated with the virtual channel number" (Col 4, Lines 43-50). Further, "STB 10 is used in conjunction with an audio/video display device or television receiver 14 and a hand-held remote control unit or infra-red keypad 16. One environment for the invention is in a hybrid fiber-optic/coax cable distribution system employing digital switching technologies such as asynchronous transfer mode (ATM) for



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bi-directional communications with individual subscribers. The headend in such a system is capable of supplying a number of different services or programs, ranging from traditional broadcast television, to movies-on-demand, to online shopping, banking, and information services" (Col 2-3, Lines 61-8). The reference discloses at least on interactive television (see Figure 1), the interactive television system server including a table for selectively allowing access to online service using the interactive television.

"FIG. 3 is a diagrammatic illustration of virtual channel table 32. In the example given, table 32 contains 500 entries, for virtual channel numbers 1 through 500. The channels are arranged in order. A viewer can increment or decrement the virtual channel number to move or "surf" between channels. When incrementing above the last virtual channel number, the first entry becomes current. When decrementing below the first virtual channel number, the last entry becomes current" (Col 4, Lines 51-59). Further, "Virtual channels 4, 121, 122, and 500 are associated with other illustrated examples of executable applications 46 which, when selected, are to be executed at STB 10" (Col 5, Lines 6-9). Matthews discloses virtual channel correlating to *online* services (see Col 2, Lines 32-37). The reference, however, is silent with respect to the online services being a web site. Breslauer teaches the inclusion websites in an access control system so prevent the unauthorized access inappropriate material from multiple sources (See Col 4, Lines 1-25; Col 8, Lines 20-28). Consequently, it would have been obvious to one of ordinary skill in the art to implement Matthews with web sites for the stated advantage. The aforementioned combined teaching fails to explicitly disclose recording a portion of the content accessed and a time of access record and billing the customer

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based on the on the record. Watson teaches disclose recording a portion of the content accessed and a time of access record and billing the customer based on the on the record so as to enable subscribers to be charged a fee based upon their actual usage rather than a flat rate. "The invention is an apparatus for (1) recording the specific channels to which the device is tuned; and (2) the periods of time for which it is tuned to each respective channel; and (3) for periodically reporting the information, in time units allocated to each channel, to the originator of the cable signal; (4) all without participation by the individual cable user; and (5) without the necessity of intrusion into the individual turning circuit" (Col 3, Lines 54-61). Consequently, it would have been obvious to one of ordinary skill in the art to implement the combined teaching with recording a portion of the content accessed and a time of access record and billing the customer based on the on the record for the stated advantage.

Claims 9 and 10 are met by that discussed above for claim 7.

In regard to claim 11, combined teaching discloses that the access record way be user for billing or the polling of subscribers. Watson is silent with respect to determining whether the information is for private or public viewing. However, it is submitted that it would have been obvious to one of ordinary skill in the art to determine whether the information is for private or public viewing so as to ensure the privacy of the subscriber.

5. Claims 12-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Matthews in view of Watson and further view of Linehan (US Pat Pub No 2004/0249726).

In regard to claim 12, Matthews discloses a subscriber interface for maintaining a virtual channel table having entries for a plurality of virtual channel numbers. The recitation of a "method for correlating plural Web site addresses to plural virtual channels, comprising the acts of:" has not been given patentable weight because the recitation occurs in the preamble. A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951). The claimed step of "providing at least one correlation table stored in an interactive television" is met by Figure 2, Item 32. "STB 10 includes means for associating each virtual channel number with a program from headend 12. In the described embodiment, such means comprises a virtual channel table 32 having entries for a plurality of virtual channel numbers. An entry for a particular virtual channel number includes a designation of an available program from the headend which is to be associated with the virtual channel number" (Col 4, Lines 43-50). The aforementioned combined teaching fails to explicitly disclose recording a portion of the content accessed and a time of access record and billing the customer based on the on the record. Watson teaches disclose recording a portion of the content accessed and a time of access record and billing the customer based on the on the record so as to enable subscribers to be charged a fee based upon their actual usage rather than a flat rate. "The invention is an apparatus for (1) recording the specific

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channels to which the device is tuned; and (2) the periods of time for which it is tuned to each respective channel; and (3) for periodically reporting the information, in time units allocated to each channel, to the originator of the cable signal; (4) all without participation by the individual cable user; and (5) without the necessity of intrusion into the individual turning circuit" (Col 3, Lines 54-61). Consequently, it would have been obvious to one of ordinary skill in the art to implement the combined teaching with recording a portion of the content accessed and a time of access record and billing the customer based on the on the record for the stated advantage. Linehan teaches discriminating between public sites and private sites so as to allow the cable company to charge a merchant web site (See Paragraph 0033). The billing is based on a user making a purchase on a merchant web sit, which discriminated it, with respect to billing. Consequently, it would have been obvious to one of ordinary skill in the art to implement the combined teaching with discriminating between public sites and private sites for the stated advantage.

In regard to claim 13, Matthews discloses a virtual channel correlating to an online service. The reference, however, is silent with respect to the online services being a web site (with a corresponding address). Official notice is taken that is notoriously well know in the art for an online services to use web sites so as to efficiently reach a large number of customers. Consequently, it would have been obvious to one of ordinary skill in the art to implement Matthews with web sites for the stated advantage.

In regard to claim 14, Matthews discloses that at least one virtual channel number is established by a consumer. "In the exemplary embodiment of the invention described herein, the viewer is involved in setting up and maintaining a channel line-up in the virtual channel table--the viewer can change the mapping of virtual channel numbers to available programs" (Col 5, Lines 44-49).

### ***Conclusion***

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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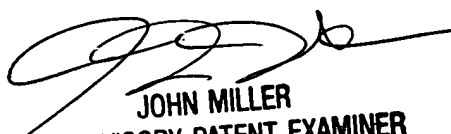
7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Manning whose telephone number is 571-272-7352. The examiner can normally be reached on M-F: 9:00 - 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John W. Miller can be reached on 571-272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JM

January 9, 2006

  
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